

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KEVIN RINGELBERG,

Plaintiff,

-v-

THE CITY OF NEW YORK et al.,

Defendants.

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THE CITY OF NEW YORK,

Counterclaim Plaintiff,

-v-

ANDRE DENNIS and CARLO NAPPI,

Counterclaim Defendants.

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20 Civ. 7251 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received a letter from the City of New York (the “City”) regarding its motion for a default judgment against defendant Carlo Nappi. *See* Dkt. 33. The Court had not, until the City’s filing, received the communication from Mr. Nappi attached to that submission, which reflects his intent to appear in and defend this action. *See id.*, Ex. 1. But in light of the Court’s preference for litigation on the merits, in deference to Mr. Nappi’s *pro se* status, and given the City’s willingness to waive Mr. Nappi’s default, the Court will vacate the certificate of default and deny the City’s motion for a default judgment, solely as to Nappi (and not co-defendant Andre Dennis),<sup>1</sup> so that Nappi may be heard on the merits of any defenses available to him.

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<sup>1</sup> The Court, by separate order, will grant the City’s motion for a default judgment as to Dennis.

As to Mr. Nappi's claims regarding the City's efforts to serve him, the Court is concerned regarding his statements—of questionably veracity—denying that the City, in fact, did so. The City has offered substantial evidence that Mr. Nappi was properly served, which the Court has no basis to doubt at this time. *See* Dkts. 12, 32, 33 at 1. If Mr. Nappi is to litigate before the Court, he is to keep all of his submissions professional and courteous, and not to engage in obloquy or personal attacks against opposing counsel.

Mr. Nappi is directed to file his response to the City's counterclaims by **April 13, 2021**. To ensure that Mr. Nappi receives notifications of activity in this case, he is directed, by the time he files his answer, either to appear *pro se* on the docket of this case or retain counsel to appear on his behalf. For now, the Court directs the City to serve this order on Mr. Nappi forthwith and file proof of such service on the docket.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: March 23, 2021  
New York, New York